

Message Text

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ACTION EB-08

INFO OCT-01 EA-10 IO-13 ISO-00 AGRE-00 CIAE-00 COME-00

INR-10 LAB-04 NSAE-00 SP-02 STR-07 TRSE-00 FRB-03

OMB-01 L-03 SS-15 H-01 /078 W

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P R 250644Z JUL 78

FM AMEMBASSY SEOUL

TO SECSTATE WASHDC PRIORITY 2505

INFO AMCONSUL HONGKONG

USMISS

ON GENEVA 618

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GENEVA FOR PHELAN

DEPT PASS COMMERCE FOR DAS ROBERT SHPEHERD, LABOR FOR DEP

ASSO UNDER SECRETARY BLACKMAN, AND STR FOR PETER MURPHY

1. SUMMARY: US AND HK TEXTILE DELEGATIONS CONCLUDED FIVE DAYS OF CONSULTATIONS JULY 21. TONE OF CONVERSATIONS WAS NOT OVERWHELMINGLY FRIENDLY; IS IS CLEAR TO USTEXDEL TTAT THERE ARE PROBLEMS AHEAD BECAUSE US/HK BILATERAL IS AN EXPORT RESTRAINT AGREEMENT AND THERE IS INEVITABLE CONFLICT BETWEEN HK EXPORT AND US IMPORT FIGURES. SECOND MAJOR PROBLEM IS OPERATION OF HK EA SYSTEM, AND INABILITY OF USG TO REACT QUICKLY ENOUGH TO EA NOTICES. END SUMMARY.

2. OVERSHIPMENTS -ACCORDING TO US DATA, FOLLOWING CATEGORIES (OLD SYSTEM) WERE OVERSHIPPED DURING LAST AGREEMENT YEAR:

CATEGORY	UNIT	OVERSHIPMENT
41/42/43/62 PT	DZ	1.120,676
49/63	DZ	17.608
48	DZ	25.561
50/51	DZ	534.913

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237 NO 65,286

225 DZ 155.630

HKG EXPORT DATA REFLECTED NO OVERSHIPMENTS FOR THAT PERIOD. HOWEVER, IN PAPER GIVEN TO USTEXDEL, HKG DATA DID SHOW UTILIZATION OF CARRYOVER FROM SECOND AGREEMENT YEAR WHICH, ACCORDING TO USG DATA, WAE NOT AVAILABLE.

3. DELEGATIONS SPENT THREE DAYS IN INTENSE DISCUSSION OF OVERSHIPMENTS, DISCUSSION WHICH GOT STORMY AT TIMES. WHILE US SIDE WAS WILLING TO CONCEDE CLASSIFICATION PROBLEMS WHICH MIGHT HAVE ACCOUNTED FOR SOME OF THE DIFFERENCES, US SIDE WAS ADAMANT THERE COULD BE LITTLE IF ANY CLASSIFICATION PROBLEM WITH CATS 50/51, 225 AND 237. HK DEL HAD NO GOOD ANSWER FOR THIS. USDEL WAS TAKEN ABACK BY HK ASSERTION THAT UNDER THE PROVISIONS (UNSPECIFIED) OF THE BILATERAL, BURDEN WAS ON THE USG TO PROVE BEYOND ANY DOUBT (LATER MODIFIED TO "REASONABLE" DOUBT) THAT HKG DATA WAS IN ERROR AND USG IMPORT STATISTICS WERE CORRECT. (COMMENT: IMPRACTICAL TERMS IT WOULD BE QUITE DIFFICULT, IF NOT IMPOSSIBLE, FOR USG TO PULL SOME 250,000 DOCUMENTS COVERING HK TEXTILE TRADE IN A GIVEN YEAR. HENCE, THIS WAS AN UNREAL ASSERTION BY HKDEL MILLS.) ASDEL RESPONSE TO MILLS WAS THAT IMPORT CONTROLS BY USG COULD SOLVE PROBLEM OF OVERSHIPMENTS IN FUTURE. MILLS SAID THAT SINCE THE BILATERAL WAS AN EXPORT RESTRAINT AGREEMENT, IT DID NOT GIVE THE ASG THE RIGHT TO IMPOSE IMPORT CONTROLS. USDEL PROCEEDED TO READ TO HIM THE L/EB LEGAL OPINION ON IMPORT CONTROLS (STATE 181701) AND ADVISED MILLS WERE CONSIDERING IMPOSITION OF SUCH CONTROLS. (COMMENT: WE ASSUME L/EB OPINION TAKES INTO ACCOUNT FACT THAT US IMPORT DATA MAY DIFFER SUBSTANTIALLY FROM CORRESPONDING HK EXPORT DATA. USDEL WOULD APPRECIATE CONFIRMATION. END COMMENT.)

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4. CALLED CATEGORIES. ON MONDAY, JULY 17, EMITH INFORMED MILLS USG WAS CALLING ON CATS 435, 438, AND 442, ADDING TO EARLIER CALLS ON CATS 443 AND 448. HKG ADVISED USDEL THAT EA'S ISSUED AS OF 0935 HOURS THAT DATE WERE 527,626 NUMBERS IN 435, 690, 551 DOZEN IN 438, AND 549,143 NUMBERS IN 442. IN NEGOTIATIONS ON THURSDAY AND FRIDAY, FOLLOWING POSITIONS DEVELOPED:

A) CATEGORY 443 - HKG POSITION IS THAT USG HAS NO BASIS FOR RESTRAINT, ESPECIALLY IN VIEW OF FACT THAT A MAJOR SUPPLIER (FRANCE) IS UNRESTRAINED; HKG REFUSED TO DISCUSS OR NEGOTIATE A NUMBER. USDEL THEREFORE ADVISED HKG THAT IMPOSED RESTRAINT OF 78,216 NUMBERS REMAINED IN EFFECT. HKDEL RESERVED ITS RIGHTS (.E., GOING TO TSB) UNDER THE BILATERAL. (COMMENT: MILLS SEEMS OBLIVIOUS TO REASON WHY USG PURSUES THIS MATTER.)

B) CATEGORY 448 - CALL WITHDRAWN PENDING WASHINGTON STATISTICAL REVIEW (FOR GAREL: 22,467 KNIT INCLUDED IN 110,625 NUMBERS OF EA ISSUED TO DATE). USDEL RESERVED RIGHT TO RECALL.

C) CATEGORY 435 - RESTRAINT LEVEL AGREED AT NO LESS THAN 565,000 NUMBERS PENDING REVIEW. REVIEW MADE FRIDAY EVENING

AND AMCONSUL HONG KONG WILL ADVISE HKG MONDAY THAT LEVEL IS
565,000 NUMBERS WHI
CH TAKES INTO ACCOUNT 25,000 NUMBERS OF
LAST YEAR'S TRADE IN CATEGORY 116.
D) CATEGORY 438 - NO AGREED RESTRAINT. USG WILL IMPOSE
RESTRAINT AT 690,551 DOZEN, AND HKG WILL RESERVE ITS RIGHTS
UNDER BILATERAL (COMMENT: CONSULTATIONS ON THIS CATEGORY
PERHAPS BEST ILLUSTRATED MILLS' FRAME OF MIND. HK HOLDS
96.4 PERCENT OF TOTAL IMPORTS, AND IMPORT PENETRATION RATIO
ROSE FROM 37.7 PERCENT IN 1976 TO 129 PERCENT IN 1977.
STILL, MILLS ASKED FOR 9,500 DOZEN MORE EVEN WHILE CONCEDING
EARLY ON THAT USG HAD BONA FIDE CASE OF DISRUPTION).
E) CATEGORY 442 - AGREED RESTRAINT LEVEL AT 557,500 NUMBERS.

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5. SPACING - INITIAL COMPARISON OF MONTHLY HKG EXPORTS
BETWEEN FIRST SIX MONTHS OF 1977 AND 1978 INDICATES NO SIGNIFI-
CANT SPACING PROBLEMS.

6. CATEGORY 645/6. AS WASHINGTON AGENCIES WILL RECALL,
DURING NEGOTIATION OF HKBILATERAL LAST YEAR IN LYON AND
GENEVA, US OBTAINED A SIX PERCENT APPARENT ROLLBACK IN
CATS 645 AND 646 IN 1978 (OLD CAT 221). ROLLBACK WAS ONLY
"APPARENT," AS HK DID NOT SHIP FULL 1976 OR 1977 QUOTA LEVEL.
DURING GENEVA NEGOTIATIONS, USDEL RESERVED RIGHT TO ASK FOR
FURTHER ROLLBACK IN 1979: THAT IS WHY CATEGORY WAS LEFT OPEN
FOR CONSULTATIONS TO DETERMINE 1979 LEVEL. ON WEDNESDAY,
JULY 19, USDEL ASKED THAT 1979 LEVEL FOR 645/6 BE REDUCED
A FURTHER SIX PERCENT IN VIEW OF CONTINUED HIGH IMPORT PENE-
TRATION. MILLS REPLIED INITIALLY THAT USG PREMISE WAS WRONG,
AND THAT HKG AGREED TO FIRST YEAR ROLLBACK ONLY TO FACILITATE
USG GETTING SIMILAR ROLLBACK FROM KOREA AND TAIWAN. HE FURTHER
STATED THAT ORIGINAL LEVEL SHOULD NOW BE RESTORED. MILLS
LATER OFFERED A STANDSTILL FOR 1979 PROVIDED THAT FIVE YEAR

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OMB-01 L-03 SS-15 H-01 /078 W

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FM AMEMBASSY SEOUL

TO SECSTATE WASHDC PRIORITY 2506

INFO AMCONSUL HONG KONG

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GENEVA FOR PHELAN

DEPT PASS COMMERCE FOR DAS ROBERT SHEPARD, LABOR FOR DEP
ASSO UNDER SECRETARY BLACKMAN, AND STR FOR PETER MURPHY

TOTAL ACCESS FOR 645/6 EQUALLED UNROLLED-BACK 1978 LEVEL PLUS
BASL (3 PERCENT) GROWTH AND PROVIDED THAT USG ACCEPTED HKG
POSITION ON INCREASES FOR CATS 435, 438, 442 AND NO RESTRAINT
ON CAT 443. USDEL REFUSED MILLS' OFFER, SAYING THERE COULD
NOT BE ANY LINK BETWEEN CALL LEVELS UNDER THE A SYSTEM DURING
AN AGREEMENT YEAR AND THE ESTABLISHMENT OF SPECIFIC LIMITS IN
ENSUING YEARS. BOTH SIDES QUESTIONED THE STATUS OF 645/6
IF NO AGREEMENT COULD BE REACHED (SEE SEPTTEL FROM AMCONSUL
HONG KONG). HKG INITIAL POSITION WAS THAT USG COULD NOT USE
MFA ARTICLE 3 AS CATEGORY WAS INCLUDED IN BILATERAL. USDEL
COUNTERED BY SAYING THAT SINCE BOTH SIDES HAD AGREED THERE
SHOULD BE A LIMIT IN 1978 AND THEREAFTER, AND SINCE WE COULDN'T
AGREE TO A LIMIT, CATEGORY WASN'T COVERED BY BILATERAL
(I.E., IT DID NOT HAVE A LIMIT IN 1979) AND HENCE WAS OPEN
TO USE OF MFA ARTICLE 3. WASHINGTON AGENCIES ARE REQUESTED
TO EXPLORE LEGAL STATUS OF CATEGORY IF NO AGREEMENT IS
REACHED (WHICH APPEARS LIKELY).

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7. VISA LETTER - AGREEMENT WAS REACHED ON EXACT WORDING OF
VISA LETTER. AMCONSUL HONG KONG WILL EXCHANGE LETTERS THIS
WEEK AND POUCH COPIES TO DEPT.

8. IMPORT/EXPORT DISCREPANCIES - OUR CONSULTATIONS ON EA CALLS
AND ON OVERSHIPMENTS WERE MADE MORE DIFFICULT BY LARGE DISCRE-
PANCIES BETWEEN US IMPORT DATA AND CORRESPONDING HK EXPORT
DATA. THE TABLE PREPARED BY USDOC/OTEX WAS LEFT WITH HKDEL
FOR REVIEW AS PART OF THE GENERAL DISCUSSION ON DISCREPANCIES.
AFTER SOME TIME USDEL REASSERTED LEGAL REQUIREMENT THAT GOODS
ENTERING US CAN ONLY COME IN ACCORDING TO US CUSTOMS CLASSI-
FICATION. HKDEL STATED IT WOULD SUBMIT A PROPOSAL TO USG
WHICH WOULD INCLUDE A PROVISION FOR BLANKET AUTHORIZATION TO
BE GIVEN THE USG TO RELEASE HK IMPORTS FROM CUSTOMS WHEN

SHIPMENT IS HELD UP BECAUSE OF A CLASSIFICATION DIFFERENCE
BETWEEN HKG VISA AND IMPORTER'S DECLARATION. SHIPMENT WOULD

THEN BE CLASSIFIED AND CHARGED ACCORDING TO USCUSTOMS DECISION
AND THEN ULTIMATELY DISCUSSED WITH HKG. (COMMENT: WHILE HK
POSITION IS THAT PARAGRAPH 18 OF THE AGREEMENT REQUIRES CLASSI-
FICATION DIFFERENCES TO BE WORKED OUT BILATERALLY, AND PRO-
HIBITS THE USG FROM CLASSIFYING UNILATERALLY, HKDEL APPEARS TO
BE SEEKING SOME PRACTICAL WAY OUT WHILE STILL RESERVING ITS
RIGHTS. END COMMENT.) HKDEL ASKED USDEL IF US DATE OF
EXPORT IS ACTUAL OR "OR OR ABOUT." HK CLAIMS HK EXPORTERS
PUT "ON OR ABOUT" DATE ON SPECIAL CUSTOMS INVOICE AND THAT
THIS, THEREFORE, MAY ACCOUNT FOR SOME OF THE DISCREPANCIES
BETWEEN HK AND US DATA, ESPECIALLY DURING FINAL DAYS
OF AN AGREEMENT YEAR. COMMERCE SHOULD CHECK THIS OUT
WITH US CUSTOMS.

9. EA SYSTEM - AS REPORTED EARLIER, USDEL BELIEVES THERE IS
A MAJOR PROBLEM EMERGING WITH THE EA SYSTEM. AT LEAST TO
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DATE, WE CANNOT REACT FAST ENOUGH TO THE HK EA REPORTS AND
STILL FULFILL OUR OBLIGATION NOT TO ACT CAPRICIOUSLY IN MAKING
CALLS. AS A RESULT, ON JULY 19 WE PROPOSED A "PAUSE" SYSTEM
WHEREBY THE USG COULD MAKE A REQUEST TO HKG THAT IT PAUSE
FOR FIVE OR SO WORKING DAYS IN ISSUING FURTHER EA'S. SUCH
WOULD NOT CONSTITUTE A FORMAL CALL BUT SIMPLY PROVIDE TIME
FOR USG TO REVIEW LATEST IMPORT AND DOMESTIC DATA. HKDEL
INDICATED THIS MIGHT BE A POSSIBILITY AND WILL SUBMIT PROPOSAL
TO USG (COMMENT: UNLESS SOMETHING IS WORKED OUT QUICKLY, USG
MAY BE FORCED TO CALL EARLIER AND FAR MORE FREQUENTLY THAN
HERETOFORE TO PREVENT SURGES. COMMERCE SHOULD BEGIN NOW PREPARING
MARKET DISRUPTION DATA AND JUSTIFICATION SHEETS FOR EVERY
POTENTIAL CALL CATEGORY. END COMMENT).

10. RULES OF ORIGIN - HKG REITERATED ITS CONCERN ABOUT THE
EC'S RULES OF ORIGIN, ALTHOUGH FROM TIME TO TIME, HKDEL
SEEMED TO CONFUSE THE ISSUE WITH CERTIFICATES OF ORIGIN.
HKDEL EXPRESSED INTEREST IN THE EC/US BILATERAL STUDY PANEL
ON THE RULES, EVEN SUGGESTING HKG PARTICIPATION. USTEXDEL
DISCOURAGED THIS FOR THE TIME BEING, BUT AS THE MATTER IS
PURSUED IN THE MTN, IT MIGHT BE USEFUL TO HAVE HK AND OTHER
EXPORTING COUNTRY SUPPORT. SURPRISINGLY, MILLS DID NOT SEEM
TO GRASP THE IMPLICATIONS OF THE EC'S TWO BTN REQUIREMENT,
BEING UNDER THE IMPRESSION APPARENTLY THAT JUST TWO PROCESSES
WITHIN A BTN WERE SUFFICIENT.

11. SHIFTS FROM KNITS TO WOVEN - ACCORDING TO HKG FIGURES
(AND LARGELY VERIFIED BY OURS), THERE DOES NOT APPEAR TO BE
ANY SIGNIFICANT SHIFTS (AS OPPOSED TO INCREASES) FROM KNITS

TO WOVEN IN THE MAN-MADE FIBER GARMETS. HOWEVER, COMMERCE SHOULD CHECK INTO WOOL GARMENTS, EXPECIALLY CATEGORIES 435 AND 448.

12. MISCELLANEOUS - USTEXDEL ALSO DISCUSSED COUNTERFEITING, TRANSSHIPMENTS, AND EX/HK BILATERAL. RE EX/HK BILATERAL, MILLS CONFIRMED FORMAL NOTES NOT YET EXCHANGED NOR WAS THERE LIMITED OFFICIAL USE

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ANY FIRM INDICATION WHEN NOTES WOULD BE. HKG OFFICIALS WILL BE MEETING EC NEGOTIATORS WEEK OF JULY 24 IN ATTEMPT TO RESOLVE REGIONAL DISTRIBUTION PROBLEM WITHIN EC.

13. OPENING UP OF US/HK BILATERAL - PER PARA 23 OF THE AGREEMENT, USG MUST DECIDE BEFORE OCTOBER 1 WHETHER IT WISHES TO OPEN UP THIS BILATERAL FOR RENEGOTIATION. WHILE HKG HAS GIVEN US A COMPARISON OF THE PROVISIONS OF THEIR AGREEMENTS WITH EC AND US, THIS COMPARISON DOES NOT REPEAT NOT COMPARE NUMBERS, INDICATE WHERE AND BY HOW MUCH HK WAS CUT BACK BY EC, ETC. WE ADVISED HKDEL THAT MATTER WAS UNDER SERIOUS STUDY WITHIN USG AND THAT US INDUSTRY WAS MAKING ITS OWN STUDY. (COMMENT: WE HAGE BEEN CONCERNED FOR SOME TIME THAT HK/EC FLEXIBILITY AND GROWTH PROVISIONS APPEAR INEQUITABLE VIS-A-VIS THOSE PROVISIONS IN HK/US BILATERAL. WHAT ADDS TO THIS CONCERN NOW ARE HKG'S SEEMINGLY INCREASED TENDENCY TO "HARD LINE" ON PRINCIPLES SUCH AS CLASSIFICATION, DISCREPANCIES IN FIGURES BETWEEN THE TWO SIDES, AND AN UNWILLINGNESS PRAGMATICALLY TO RECOGNIZE POLITICAL REALITIES IN THE US AS THEY PERTAIN TO TEXTILES. THIS HAD OT BEEN THE CASE WITH THE PREVIOUS HKG NEGOTIATOR, PETER TSAO, WHO COULD ARGUE PRINCIPLES WITH THE BEST BUT WHO, WHEN IT CAME TIME TO TALK REAL NUMBERS, ADOPTED A PRAGMATIC, IMAGINATIVE APPROACH WHICH IS NOT EVIDENT WITH MILLS. IN SUM, USTEXDEL FORESEES SOME DIFFICULT AND PERHAPS STORMY DAYS AHEAD UNLESS HKG BEGINS TO APPROACH OUR BILATERAL TEXTILE ISSUES IN A MORE COOPERATIVE, PRAGMATIC MANNER. HKG KNOWS THE USG NEGOTIATED A FAIR AND REASONABLE BILATERAL, ESPECIALLY IN COMPARISON WITH HKG'S BILATERAL WITH THE EC. THE BEST WAY HKG COULD RECOGNIZE THIS IS TO EVINCE A WILLINGNESS TO HELP US IN RESOLVING PROBLEMS RAISED OR CAUSED BY THE BILATERAL INSTEAD OF HARD-LINING US EVERY BIT OF THE WAY. END COMMENT.) GLEYSTEN

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